

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SPIRE STL PIPELINE LLC,)	
)	
Plaintiff,)	Cons. Case No.: 4:18-cv-01327
)	
)	THIS DOCUMENT APPLIES TO
)	CASE: (4:18-CV-01344)
3.31 ACRES OF LAND, MORE OR LESS,)	Tract No. MO-SC 312.000
SITUATED IN ST. CHARLES COUNTY,)	
STATE OF MISSOURI et al.,)	
)	
Defendants.)	

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS'
MOTION TO CONTINUE JUST COMPENSATION HEARING

Plaintiff Spire STL Pipeline LLC ("Spire") submits this Memorandum in Opposition to Defendants' Motion to Continue Just Compensation Hearing. In Support, Spire states:

ARGUMENT

Defendants' request to continue the just compensation hearing in order to move to dissolve the Court's preliminary injunction order and dismiss the Amended Complaint based on lack of jurisdiction is premature.

By order dated June 22, 2021, the United States Court of Appeals for the District of Columbia Circuit ("DC Circuit") issued its order vacating Spire's Certificate and remanding to the Federal Energy Regulatory Commission ("FERC") for further proceedings. However, pursuant to DC Circuit Rule 35(a), Spire has 45 days from June 22, 2021 within which to file a Petition for Panel Rehearing or Rehearing En Banc. The mandate is not final until at least seven (7) days after the time to file a petition expires. See Fed. R. App. P. 41 and DC Circuit Rule 41. If

a petition is denied, the Clerk of the Court will then issue an order remanding the matter to FERC for further action to vacate the Certificate.

Until the DC Circuit issues the mandate, Spire's Certificate remains in effect and the allegations of the Complaint filed on August 15, 2018, as amended, regarding this Court's jurisdiction are accurate and permit this Court to proceed with the hearing on just compensation due to Defendants. *See* Complaint, ¶¶ 5, 8-10. Further, in this Court's Report and Recommendation issued on November 26, 2018, this Court sustained Spire's request for preliminary injunctive relief, and issued an Order of Condemnation, declaring that Spire has the authority under the Natural Gas Act, 15 U.S.C. § 717f(h) ("NGA") to condemn the subject parcels, and granted Spire the authority to take physical possession of the subject parcels to construct and operate the pipeline. *See* Doc. 222. The District Court affirmed this Court's Report and Recommendation on December 12, 2018. *See* Doc. 235; *see also* Doc. 303 and Doc. 308 (March 5, 2019 Report and Recommendation and March 15, 2019 order affirming Report and Recommendation, respectively).

Pursuant to the Complaint and the Orders granting Spire's preliminary injunction requests, this Court retains jurisdiction to proceed with and complete the hearing before the Commissioners at this time. Further, just compensation for the taking of the permanent and temporary easements is due to the landowner regardless of the ultimate outcome before the DC Circuit, and Spire desires to resolve the issue of just compensation now. It is in the interest of judicial economy and convenience of the parties to proceed with and complete the present hearing in order to assure the record on the current proceeding is complete and final judgment awarding Defendants' just compensation for the taking of the permanent and temporary easements can be entered.

CONCLUSION

For the reasons stated herein, Spire respectfully prays that the Court denies Defendants' request to continue the just compensation hearing and further relief requested therein, and grant such additional relief to Spire as is just and proper under the circumstances.

Respectfully submitted,

HAMILTON WEBER LLC

By /s/ David T. Hamilton

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served this 22nd day of June 2021, by means of Notice of Electronic Filing pursuant to Fed. R. Civ. P. 5(b)(2)(E), to:

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